S. HRG. 98-15

LEE METCALF WILDERNESS AND MANAGEMENT ACT OF 1983

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 96

A BILL TO ESTABLISH THE LEE METCALF WILDERNESS AND MANAGEMENT AREA IN THE STATE OF MONTANA, AND FOR OTHER PURPOSES

FEBRUARY 17, 1983

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
17-719 O WASHINGTON : 1983

S311-36

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon
LOWELL P. WEICKER, JR., Connecticut
PETE V. DOMENICI, New Mexico
MALCOLM WALLOP, Wyoming
JOHN W. WARNER, Virginia
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
JOHN HEINZ, Pennsylvania

J. BENNETT JOHNSTON, Louisiana
HENRY M. JACKSON, Washington
DALE BUMPERS, Arkansas
WENDELL H. FORD, Kentucky
HOWARD M. METZENBAUM, Ohio
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana
PAUL E. TSONGAS, Massachusetts
BILL BRADLEY, New Jersey

MICHAEL D. HATHAWAY, *Staff Director*
CHARLES A. TRABANDT, *Chief Counsel*
D. MICHAEL HARVEY, *Chief Counsel for the Minority*

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

MALCOLM WALLOP, Wyoming, *Chairman*

MARK O. HATFIELD, Oregon
CHIC HECHT, Nevada
JOHN H. CHAFEE, Rhode Island
PETER V. DOMENICI, New Mexico

DALE BUMPERS, Arkansas
HENRY M. JACKSON, Washington
SPARK M. MATSUNAGA, Hawaii
JOHN MELCHER, Montana

JAMES A. McCLURE and J. BENNETT JOHNSTON are Ex Officio Members of the Subcommittee

TONY BEVINETTO, *Professional Staff Member*

CONTENTS

	Page
S. 96	2

STATEMENTS

Baucus, Hon. Max, a U.S. Senator from the State of Montana	16
Bradley, Dorothy, on behalf of the Montana Wilderness Association and the Madison/Gallatin Alliance	28
Crowell, Hon. John B., Jr., Assistant Secretary for Natural Resources and Environment, Department of Agriculture	19
DuBois, Hon. Frank, Deputy Assistant Secretary for Land and Water Resources, Department of the Interior, accompanied by Bob Gilmore, Deputy Associate Director, Fish and Wildlife Service	22
Melcher, Hon. John, a U.S. Senator from the State of Montana	16
Wallop, Hon. Malcolm, a U.S. Senator from the State of Wyoming	1

APPENDIX

Additional material submitted for the record	35

LEE METCALF WILDERNESS AND MANAGEMENT ACT OF 1983

THURSDAY, FEBRUARY 17, 1983

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Chafee, and Melcher.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning. I apologize to all who were prompt. I spent a mysterious morning parked for about 30 minutes and then all of a sudden there is nothing in the way and nothing apparently was, but at any rate what usually takes me 20 minutes to drive through, took forever this morning. I'm sorry.

I will just give you one last brief recess. I have got to get the phone here.

[Brief pause in the proceedings.]

Senator WALLOP. Today the Subcommittee on Public Lands and Reserved Water will hold a hearing on S. 96, the bill to establish the Lee Metcalf Wilderness in the State of Montana, and for other purposes.

I ask that a copy of S. 96 be placed in the record, and the hearing record will remain open 2 weeks following the date of this hearing in order that those who wish to may submit written statements to be included in the printed record.

However, as this bill is on the committee agenda, anyone with any information of a pertinent nature should submit it immediately to the subcommittee staff.

[The text of S. 96 follows:]

II

98TH CONGRESS
1ST SESSION

S. 96

To establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mr. MELCHER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Lee Metcalf Wilderness and Management Act of 1983".

DESIGNATION AND MANAGEMENT OF LEE METCALF WILDERNESS AND MANAGEMENT AREA

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Beaverhead and Gallatin National Forests and certain lands in the Dillon Resource Area, Montana, adminis-

tered by the Bureau of Land Management which comprise approximately two hundred and forty-four thousand acres as generally depicted as the "Lee Metcalf Wilderness" on a map entitled "Lee Metcalf Wilderness—Proposed," and dated January 1983 are hereby designated as wilderness and shall be known as the Lee Metcalf Wilderness.

(b) Subject to valid existing rights, the Lee Metcalf Wilderness as designated by this Act shall be administered by the Secretary of Agriculture, hereafter referred to as "the Secretary," in accordance with the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act: *Provided further,* That the Bear Trap Canyon portion of the Lee Metcalf Wilderness shall be administered by the Secretary of the Interior.

(c)(1) Certain lands within the Gallatin National Forest near Monument Mountain have important recreational and wildlife values, including grizzly bear and elk habitat which the Congress recognizes. In order to conserve and protect these values, there is hereby established within the Gallatin National Forest the Lee Metcalf Management Area.

(2) The area in (c)(1) shall comprise approximately thirty-five thousand five hundred acres as generally depicted on a map entitled "Lee Metcalf Management Area," dated

January 1983. The area shall be managed to protect the wildlife and recreational values of these lands and shall be hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing, and all amendments thereto, and further shall be administered by the Secretary to maintain presently existing wilderness character, with no commercial timber harvest nor additional road construction permitted. The Secretary shall permit continued use of the area by motorized vehicular equipment only where such use is compatible with the protection and propagation of wildlife within the area. Management direction for the area that recognizes these values shall be included in the forest plan developed for the Gallatin National Forest in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976.

DESIGNATION AND MANAGEMENT OF CERTAIN NATIONAL FOREST LANDS IN THE STATE OF MONTANA

SEC. 3. (a) The Congress hereby determines and directs that—

(1) the areas listed in subsection (b) of this section have been adequately studied for wilderness pursuant to Public Law 95–150 or in the RARE II Final Environmental Statement (dated January 1979);

(2) such studies shall constitute an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option for such areas prior to revision of the initial plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94–588) and in no case prior to the date established by law for completion of the initial planning cycle;

(3) such areas need not be managed, unless otherwise specified in this Act, for the purposes of protecting their suitability for wilderness designation pending revision of the initial plans.

(b) The areas covered by subsection (a) of this section are as follows:

(1) the Mount Henry Wilderness Study Area as designated by Public Law 95–150;

(2) those portions of the Taylor-Hilgard Wilderness Study Area as designated by Public Law 95–150 but not designated as wilderness by this Act;

(3) certain lands on the Gallatin National Forest and Beaverhead National Forest identified as area 1549 in the Forest Service Roadless Area Review and

17-719 O - 83 - 2

Evaluation (II) Final Environmental Statement, Executive Communication Numbered 1504, May 3, 1979, not designated as wilderness by this Act;

(4) certain lands on the Custer National Forest known as the proposed Tongue River Breaks Wilderness, which comprise approximately sixteen thousand five hundred acres, as identified in Executive Communication Numbered 1504, Ninety-sixth Congress (House Document Numbered 96–119).

(c)(1) The lands described in subsection (c)(2) of this section have been adequately studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act (Public Law 94–579) and need not be managed, unless otherwise specified in this Act, for the purposes of protecting their suitability for wilderness designation, and may be made available for such uses as are deemed appropriate in land use plans developed pursuant to the Federal Land Policy and Management Act.

(2) The lands covered by subsection (c)(1) of this section are as follows:

(A) certain lands administered by the Bureau of Land Management in the Powder River Resource Area, Montana, identified as area numbered 736, Tongue River Breaks Contiguity, comprising approximately two thousand acres as described in the "Final

Decision Montana Wilderness Inventory" published November 1980 by the Bureau of Land Management;

(B) certain lands administered by the Bureau of Land Management in the Dillon Resource Area, Montana, identified as area numbered MT–076–079 "Madison Tack-Ons" comprising approximately one thousand five hundred acres, as described in the "Final Decision Montana Overthrust Belt Wilderness Inventory" published by the Bureau of Land Management, not otherwise designated as wilderness by this Act; and,

(C) certain lands administered by the Bureau of Land Management known as "Bear Trap Canyon Study Area", Madison County, Montana, as described in "Draft Suitability and Environmental Impact Statement for Wilderness Designation of Bear Trap Canyon Instant Study Area" published April 1980 by the Bureau of Land Management, not otherwise designated as wilderness by this Act.

(d) The Secretary is directed to revise the boundary of the Absaroka-Beartooth Wilderness, Montana, to exclude from the wilderness the non-Federal lands platted as homestead entry survey numbered 865 (within section 8, township 7 south, range 10 east, Montana principal meridian) and such additional land as deemed appropriate by the Forest Service to provide vehicular access thereto, and approximately forty

acres located in the West Fork Mill Creek (section 13, township 7 south, range 9 east, Montana principal meridian) to exclude about three-tenths of a mile of existing road, parking area, and public facilities. Lands excluded pursuant to this subsection are hereby removed from the National Wilderness Preservation System.

(e) The road depicted on a map entitled "U. L. Bend Wilderness Access for Motor Vehicles" dated January 1983 and fifty feet on either side of such road are hereby removed from the National Wilderness Preservation System. Such map shall be on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service.

LAND ACQUISITION AND EXCHANGE

SEC. 4. (a) The Congress finds that the wilderness area within the Gallatin and Beaverhead National Forests in Montana established by this Act contains significant amounts of intermingled lands owned by Burlington Northern Railroad Company and that in order to manage the wilderness in an efficient and effective manner these lands should be owned by the Federal Government. Notwithstanding any other provision of law, this section hereby authorizes and directs the exchange of lands and interests in lands between Burlington Northern Railroad Company and the United States through the Secretary and the revocation of existing withdrawals on

the Federal lands. Accordingly, the Congress directs the Secretary to accept from Burlington Northern Railroad Company the following described lands and interests therein, consisting of twenty-four thousand and seven and twenty-three one-hundredths acres of land, more or less, subject to valid existing rights of record acceptable to the Secretary.

Township 6 South, Range 1 East, Montana Principal Meridian

Section 13: All,

Township 6 South, Range 2 East

Section 1:

Lots 13, 14,

North half,

West half southeast quarter,

Section 19: All fractional,

Section 27: All,

Section 29: All,

Section 31: All fractional,

Section 33: All,

Township 7 South, Range 1 East

Section 1: All fractional,

Section 3:

Lots 1 and 2,

South half northeast quarter,

Section 11: North half northeast quarter,

Township 7 South, Range 2 East

Section 5: All fractional,

Section 15: All,

Section 17: All,

Section 21: All,

Section 25: All,

Section 27: North half,

Southeast quarter,

East half southwest quarter,

Section 35: North half,

Township 7 South, Range 3 East

Section 31: All fractional,

Township 8 South, Range 1 East

Section 25: North half,

Township 8 South, Range 2 East

Section 1: All fractional,

Section 3: All fractional,

Section 9: All,

Section 11: All,

Section 13: All,

Section 15: All,

Section 17: All,

Section 19: All fractional,

Section 21: All,

Section 23: All,

Section 25: All,

Section 27: All,

Section 33: East half,

Section 35: All,

Township 8 South, Range 3 East

Section 5: All fractional,

Section 7: All fractional,

Section 17: All,

Section 19: All fractional,

Section 21: West half,

Section 29: All,

Section 31: Lots 1 and 2,

Northeast quarter,

East half northwest quarter,

Township 9 South, Range 2 East

Section 1: All fractional,

Section 11: All.

The lands acquired by the United States under the provisions of this section shall become parts of the Gallatin and Beaverhead National Forests subject to the laws, rules, and regulations applicable to the national forest system.

(b) Upon acceptance of title by the United States to the lands described in subsection (a) of this section, the United States through the Secretary shall convey to Burlington Northern Railroad Company all right, title, and interests to

the following described national forest system lands and interests therein, consisting of eleven thousand eight hundred and ten and forty-seven one-hundredths acres of land more or less, which are of substantially equal value to the lands and interests conveyed to the United States and described as follows:

Township 5 South, Range 1 East, Montana Principal Meridian

Section 24: South half,

Section 26: All,

Section 34:

Lots 1, 2, 3, 4,

Southeast quarter,

Section 36: All, less HES 187 and 190,

Township 5 South, Range 2 East

Section 30: All fractional,

Section 32: All,

Section 34: South half,

Township 6 South, Range 1 East

Section 2: All fractional,

Section 12: All,

Township 6 South, Range 2 East

Section 2: All fractional,

Section 4: All fractional,

Section 6: All fractional,

Section 8: All,

Section 10: All,

Section 12: All fractional,

Section 14: All,

Section 16: All,

Section 22: All,

Section 24: All,

Township 6 South, Range 3 East

Section 18: All fractional.

The lands described in this subsection are conveyed subject to the following reservations:

(1) Ditches and canals as provided for in the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945); and

(2) For so long as the Secretary deems necessary, Burlington Northern Railroad Company accepts the responsibility accruing from this exchange to provide and manage three (3) public recreational accesses, including trail head facilities, in the Jack Creek drainage over routes approximately as illustrated on Exhibit C of the Memorandum of Understanding dated November 20, 1981, between the United States Forest Service and Burlington Northern Railroad Company to utilize national forest lands.

17-719 O - 83 - 3

(c) The transactions necessary to effect the conveyances of title to lands authorized by this section shall be completed within ninety days of enactment of this Act: *Provided*, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.

(d) The following orders of withdrawal, as they apply to the lands conveyed by the United States and involved in the transactions authorized by this section, are hereby revoked:

Executive Order Numbered 30—Montana 7—Phosphate Reserve—October 9, 1917 (One hundred and eighty-five acres).

Executive Order Numbered 30—Montana 8—Coal Reserve—December 27, 1911 (two thousand two hundred and eighty acres).

Montana 1—Coal Reserve—July 9, 1910 (seven thousand three hundred and sixteen and seventy-three one-hundredths acres).

Public Land Order Numbered 1370—Hammond Administrative Site—November 28, 1956.

Public Land Order Numbered 909—Jack Creek Administrative Site—July 13, 1953.

FILING OF MAPS AND DESCRIPTIONS

SEC. 5. As soon as practicable after enactment of this Act, maps and legal descriptions of the Lee Metcalf Wilder-

ness and Management Area shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There is hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

Senator WALLOP. Now the first witness will be our colleague from Montana, Senator Melcher.

STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator MELCHER. Mr. Chairman, first of all, Senator Baucus asked me to submit his statement in support of the bill, and I would like to submit three letters that have been addressed to us and ask that they be made a part of the record regarding one provision in the bill.

Senator WALLOP. They will be admitted.

Senator MELCHER. Beyond that, I only want to thank you for scheduling this hearing very promptly, and I want to thank the witnesses, too, both the Agriculture Department and the Department of the Interior, for readying their comments and their recommendations on the bill, and thank Ms. Dorothy Bradley for representing the Montana Wilderness Association in today's hearing.

Thank you, Mr. Chairman.

Senator WALLOP. Did you have a prepared statement that you wished to include in the record?

Senator MELCHER. No, I have no prepared statement.

[The prepared statement of Senator Baucus and letters submitted by Senator Melcher follow:]

STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM THE STATE OF MONTANA

Mr. Chairman, I want to express my appreciation to you for scheduling this hearing on S. 96, the legislation creating the Lee Metcalf Wilderness Area. The entire Montana delegation has spent many hours developing this legislative package and we look forward to prompt action on the bill during the 98th Congress.

Of foremost consideration is the remarkable suitability of naming this wilderness area in memory of Montana Senator Lee Metcalf. The massive mountain range that is the backbone of the area is a fitting memorial to the man who led the way for conserving Montana's wilderness heritage. In fact, Lee Metcalf was the chief sponsor of the Montana Wilderness Study Act—the legislation that mandated the detailed study of nine parcels of wild land in Montana, including the Taylor-Hilgard region for potential inclusion in the National Wilderness Preservation System.

From his election to the U.S. House of Representatives in 1952 until his death on January 12, 1978, Lee Metcalf stood as a pillar of the American conservation movement. His legacy includes the Wilderness Act, the Surface Mining Control and Reclamation Act, the Clean Air Act, and innumerable measures to preserve and protect the nation's natural resources. This remarkable record is well reflected in these impressive wild lands.

As presently drafted, the Lee Metcalf Wilderness consists of four separate areas. The furthest north is the region known as the Beartrap Canyon that borders the Madison River, one of the three tributaries of the Missouri River.

To the south of Beartrap Canyon lies the Spanish Peaks area. This beautiful alpine country has been under administrative protection as a "primitive area" for nearly half a century. Some 25 peaks, over 10,000 feet in elevation, create an unforgettable landscape.

The largest component of the Lee Metcalf Wilderness Area stretches from Lone Mountain almost to Hebgen Lake. For hunters, fishermen, backpackers, and people simply needing the rejuvenation of untrammeled wilderness, this segment of the Madison Mountain range is unsurpassed.

Finally, lying adjacent to Yellowstone National Park is the Monument Mountain area. While this region has many values, the Montana Congressional delegation was most influenced by testimony that this is absolutely critical habitat for the preservation of the Grizzly Bear. Development pressures here could contibute to the demise of the Grizzly.

Taken altogether, the Lee Metcalf Wilderness Area includes approximately 244,000 acres. In addition, this legislation creates a 35,000 acre management area to the west of Monument Mountain to ensure maintenance of wildlife habitat. Snow-

mobile activity will be allowed to continue in the management area as this is the location of the popular Big Sky snowmobile trail. Testimony from wildlife experts indicated that this use should not pose significant hazards to the wildlife population.

This compromise measure is, of course, not everything I might wish for. For example, I advocated the inclusion of an area called "Cowboy Heaven" in the wilderness designation. This would have resulted in a continuous wilderness management area running from the Beartrap Canyon to the Spanish Peaks. In addition to making good sense from the standpoint of administration, lands having important wilderness values would have been preserved.

Despite differences of this sort, I favor immediate action by the Committee on this legislation. Montana faces an onslaught of decisions relating to our public lands in the next few years. We must be prepared to devote the necessary energies. For instance, RARE II areas throughout the state must be given final consideration. Those lands meriting wilderness status must be designated for inclusion in the System, while other areas must be released for other uses.

Once again, I thank you for the opportunity to address this legislation and for the attention given this matter by the Committee.

THE BROWN CATTLE CO.,
Birney, Mont.

Hon. JOHN MELCHER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR JOHN: I am told that the Metcalf Wilderness Bill is now Senate bill 96 and is due for hearing soon.

I am enclosing a copy of the letter I sent you April 5th, 1982. I would hope that with a change of the Senate bill number 2110 to number 96, a copy of the April 5th letter may be read at the hearing and inserted in the Congressional Record.

Sincerely,

ARTHUR F. HAYES, Sr., *President.*

THE BROWN CATTLE CO.,
Birney, Mont., April 5, 1982.

Hon. JOHN MELCHER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR JOHN: I am tardy in writing you in support of your Senate Bill No. S 2110 which deals with the removal of the Tongue River Breaks wilderness designation.

As one of the major permittees in this designated area, I certainly am not in favor of it being included in wilderness.

First, such designation has hampered our use of the area and our continued effort to improve our range management plan, which has had the Forest Service approval.

Second, the multiple use concept is still very basic for this area's economy. The setting aside of this area in wilderness eliminates the recreation potential, except to the very few. This is determental to hunting, snowmobiling and all other recreation activities. These recreational activities should be of major consideration when one considers the inexporable development of the surrounding area. Also it is impossible for any government agency to police and enforce the covenants required in this wilderness designation.

Third, the motivation behind this wilderness designation has always been to stop resource development, not only in the designated area but in the adjacent area as well. This can be documented.

We are in hope that Senate Bill No. S 2110 will pass. We would like to know the timetable of its progress, if possible.

Sincerely yours;

ARTHUR F. HAYES, Sr., *President.*

NANCE CATTLE CO.,
Birney, Mont.

Hon. JOHN MELCHER,
Washington, D.C.

DEAR SENATOR: I understand that your Metcalf bill will be up before committee soon. I am writing about the section deleting the Tongue River Breaks from further Wilderness Study—I am aware, Senator, that another letter to you on this matter is meaningless because you are knowledgeable about my position on this matter.

I would like the committee to know, however, that I have lived adjacent to this area for 66 years and have run cattle on the area most of my active life. I am more convinced than ever since the area has been treated as wilderness that the Tongue River Breaks should be returned to the Forest Service Plan and the multiple use concept be used on the area.

Sincerely yours,

MARCUS L. NANCE.

THERMAL ENERGY,
Billings, Mont., February 15, 1983.

Re Designation and management of Lee Metcalf Wilderness and Management Area.

SUBCOMMITTEE ON PUBLIC LAND,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: We request that this letter be recorded as a proponent of S. 96 in the hearing proceedings regarding the Lee Metcalf Wilderness and Management Act of 1983. Our comments pertain to Section 3(b)(4) and Section 3(c)2A, the release of the Tongue River Breaks and Contiguity from further wilderness study.

Investigation into the process which led to the recommendation of the Tongue River Breaks as a wilderness area was ill-conceived and hastily completed. The final decision was made by Deputy Secretary of Agriculture, Rupert Cutler, and was directly contrary to the advice of the local and regional Forest Service personnel who conducted the RARE II study. Mr. Cutler's irrational decision was also in direct contrast to strong local public opinion and recommendations by Montana State Governor, Tom Judge.

We contend that the Draft Land Management Plan (USDA-FS-ADM-DES-01-08-79-01) for the Ashland Division of the Custer National Forest is a more realistic approach to the management of the area. The favored alternative in the Plan's Environmental Statement recommended to: "Orient management to provide for all groups of people with emphasis on those that are there now and those we expect to come there. Major program emphasis would be on livestock range, recreation (developed and dispersed), and timber management.

During the planning process of this Land Management Plan, careful attention and consideration was given to the concerns of local agencies and residents. Therefore, we ask the Committee to reject the RARE II designation and adopt the multiple-use plan which was developed by the U.S. Forest Service for management of the Ashland Division of the Custer National Forest.

We thank you for the opportunity to comment.

Sincerely,

PAT WILSON,
Manager, Public Affairs Montana.

Senator WALLOP. Next is the Honorable John Crowell, Assistant Secretary of the Department of Agriculture, accompanied by Mr. Frank DuBois, Deputy Assistant Secretary for Land and Water of the Department of the Interior.

Senator CHAFEE. Mr. Chairman, is there a map or something that shows us where it is?

Senator WALLOP. That will be coming up as we hear the testimony.

Mr. Secretary, I know you have had problems with OMB, but it causes us severe problems as well, and I hope that that is the last time, and I am principally here chastising OMB, not you, but none-

theless it is very difficult to enforce if we can't begin. I hope that is the last time.

Mr. CROWELL. Mr. Chairman, we have no problem with the Office of Management and Budget except for the delay in getting our prepared statement up here, and I apologize for that.

Senator WALLOP. That is a problem for us, if it is not one for you, but I want to broaden my statement.

Mr. CROWELL. We tended to fall behind with the snowy weather and we got a couple of days behind on the whole process and hopefully before another month is up we will catch up.

STATEMENT OF HON. JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. CROWELL. Mr. Chairman, I do appreciate the opportunity to be here today to present our views on S. 96, the Lee Metcalf Wilderness and Management Act of 1983.

With your permission, I am pretty much going to read the statement as presented because when I tried to summarize it I found that it was so tightly written it was almost impossible to summarize without leaving out something of significance.

This bill deals with several wilderness and wilderness-related issues in Montana and involves land administered by the Forest Service, the Bureau of Land Management, and the Fish and Wildlife Service. My comments will be confined to the National Forest System lands which make up the bulk of the lands affected by the bill.

Public Law 95-150 which was enacted November 1, 1977, required study of nine areas in Montana to determine their suitability for inclusion in the National Wilderness Preservation System.

On September 19, 1980, the draft environmental impact statement for the wilderness study of three of those nine areas—Mount Henry, Taylor-Hilgard, and West Pioneer—was released. It recommended wilderness designation for part of the Taylor-Hilgard and nonwilderness for the remainder of the areas. The final environmental impact statement has been prepared and is undergoing final review in the administration now. Two of the areas covered by the study—Mount Henry and Taylor-Hilgard—are dealt with in S. 96.

The proposed Lee Metcalf Wilderness would consist of four separate units containing, according to the bill, approximately 244,000 acres. The upper map on the easel shows the four areas, the northern most one—the small one—being the Bear Trap. The next one, Spanish Peaks—has been administratively designated a primitive area for a long time, the long, narrow area is the Taylor-Hilgard area, and then the one in the lower righthand corner is the Monument Mountain area. Between the Taylor-Hilgard and Monument Mountain area is the Lee Metcalf management area as proposed by the bill which would not be given wilderness status by the bill. We will talk a little bit about that during the course of my testimony.

The Bear Trap Canyon unit, which is the northernmost one, is mainly on Bureau of Land Management administered lands and includes only about 2,300 acres of National Forest System land. We

have no objection to the National Forest System land being included in wilderness, but will defer to Mr. DuBois and the Department of the Interior for comments on wilderness designation for this unit.

If this unit is designated as a wilderness, we recommended that the national forest boundary be adjusted to coincide with the wilderness boundary. This will provide for management of the entire wilderness unit by one agency under a single authority.

I might say that we would have no objection if the boundary were drawn so as to exclude the approximately 2,300 acres from National Forest System lands and to put it all into BLM management.

The Spanish Peaks unit which is the next one to the south, contains the 63,000 acre primative area plus approximately, another 10,000 acres of adjacent national forest land. The Spanish Peaks area, as I say, has long been recognized for its wilderness qualities and was previously recommended for wilderness designation by the primitive area review which took place as a result of the mandate in the 1964 Wilderness Act.

We support the inclusion of the Spanish Peaks unit in the wilderness system. We do, however, recommend that it be designated as the Spanish Peaks Wilderness because that name has always been applied to the area.

The largest unit addressed by the bill contains about 147,000 acres along the crest of the Madison Range south of Lone Mountain. The wilderness values of this unit were recognized in the study performed by the Forest Service in response to the mandate of Public Law 95–150. We support its inclusion also in the wilderness system. This unit includes more than 24,000 acres of private lands. However, the land exchange provisions of the bill will adequately deal with most of those lands.

One 640-acre parcel of land administered by the Bureau of Land Management adjacent to the National Forest System land on the west side of this unit is included in the wilderness proposal, and again we recommend that the national forest boundary be adjusted to coincide with the wilderness boundary and that in this instance the parcel be added to the National Forest System.

The fourth unit of the proposed wilderness is the Monument Mountain area which is the area in the extreme righthand corner of the map on the easel. That unit contains approximately 30,000 acres and is adjacent to the northwest corner of Yellowstone National Park.

While we do not have strong objections to this area being included in the wilderness system, the Forest Service did not recommend it in its study under the Montana Wilderness Study Act. We believe that the area can be managed under national forest land management plans to provide properly for wildlife, for dispersed recreation and for other resource values. We expect much of the area to remain essentially undeveloped, whether or not it is included in the wilderness system.

Sections 2(c)(1) and 2(c)(2) of the bill provide for establishment of the 35,500 acre Lee Metcalf management area which is the area on the map between Taylor-Hilgard and Monument Mountain. We appreciate the importance of providing for the established motorized

recreation use, as this bill does, especially snowmobiling, while protecting the recognized wildlife values which do exist in the area. We are confident however, that this can be done effectively through the national forest land management plan, so we do not believe that the establishment of a special management area is necessary. We recommend that the management area provisions be eliminated from the bill.

We are in agreement with the concept of the bill that would release from further wilderness consideration the Mount Henry Wilderness study area. That is not shown on this map. It is on the map that is now being placed on the easel. It is in the extreme northwestern corner of the State of Montana. Also we favor the bill's provisons for release of portions of the Taylor-Hilgard Wilderness study area which lie outside the area which is being recommended for wilderness by the bill, portions of RARE II area 1549 which are also in the neighborhood of the land being considered for wilderness designation by the bill, and then the Tongue River Breaks which are over toward the eastern part of the State.

We strongly urge that release provisions also be extended to the West Pioneer Wilderness study area which was part of the Montana Wilderness Study Act of 1977 and which the Forest Service has recommended not be designated as wilderness. In the last Congress there was a bill introduced which stated that this area had been adequately studied for wilderness and directed that the forest land management plan provide for management to protect the wildlife, fisheries, watershed, and recreation values of that area. This planning is being done as a part of the Forest Service land management planning effort. It would be desirable now to resolve the wilderness, nonwilderness issue by including the West Pioneer area among those which are released from further wilderness consideration by this bill.

However, release of areas from further review of the wilderness option as provided in the bill is for only the first generation of land management plans. This is inadequate in our view. We, therefore, do strongly recommend that permanent release from further consideration for wilderness of those areas being released by the bill and for that area which we are recommending also be released—West Pioneer—be provided on a permanent basis. All these areas have received adequate consideration for wilderness through study and now by the Congress if this bill is enacted. We believe that no further consideration of the wilderness option for those roadless areas which are being released by the bill would ever be necessary again.

We have provided to the committee staff some suggested language which would effect this proposed amendment to the bill.

Additionally, we believe that this bill offers an opportunity to take further steps in resolving other difficult wilderness issues. In October 1982, as I know you know, Mr. Chairman, the U.S. Court of Appeals for the Ninth Circuit affirmed a lower court decision that the environmental impact statement on RARE II had been inadequate. Consequently, on February 1, 1983, the Department of Agriculture announced its decision to reevaluate roadless areas as part of the ongoing program of preparing management plans for individual national forests.

17-719 O - 83 - 4

We are continuing to urge Congress to enact legislation to resolve the issue of wilderness designation. It would, therefore, be appropriate to include language in this bill declaring the environmental analysis process and public participation procedures of RARE II to have been adequate consideration of the wilderness and nonwilderness values of all those lands in Montana which were ultimately placed in a nonwilderness category by the RARE II decision. Such legislation would prevent challenge in court of activity on RARE II areas allocated to nonwilderness and would avoid the need for costly and time-consuming revisions to land management plans for national forests in Montana. Again, we have provided to the committee staff some recommended language which would accomplish this recommendation.

Additionally, the bill provides for boundary adjustments in the Absaroka-Beartooth Wilderness. These adjustments will correct conflicts with non-Federal lands and will improve management. We support those boundary adjustments.

Another major provision of this bill is to provide for exchange of lands between the Federal Government and the Burlington Northern Railroad Co. A significant amount of acreage in the Taylor-Hilgard area is a checkerboarded area. The bill directs and authorizes an exchange which would protect the wilderness values of the proposed Lee Metcalf Wilderness and would allow for better management and use of the private lands. This is an effective way to solve the complicated land ownership problems existing in this area, and we endorse it in this particular situation.

The wilderness boundaries proposed in the bill do differ in several instances from those proposed in the Forest Service wilderness study. We have reviewed those changes, though, and we have no objections to them either.

Mr. Chairman, that concludes my prepared testimony, and I appreciate the opportunity to present it so fully.

Senator WALLOP. Thank you, John. I appreciate your testimony.

Mr. DuBois.

STATEMENT OF HON. FRANK DUBOIS, DEPUTY ASSISTANT SECRETARY FOR LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY BOB GILMORE, DEPUTY ASSOCIATE DIRECTOR, FISH AND WILDLIFE SERVICE

Mr. DUBOIS. Thank you, sir. I appreciate the opportunity to be here to discuss S. 96.

In addition, in the audience we have Mr. Bob Gilmore who is Deputy Associate Director of the U.S. Fish and Wildlife Service in case there are any questions concerning the provisions of the bill that deal with the National Wildlife Refuge System.

S. 96 would establish the Lee Metcalf Wilderness which would be comprised of approximately 244,000 acres of land within the Beaverhead and Gallatin National Forests and certain public lands managed by the BLM in the Dillon resource area in Montana.

The Lee Metcalf Wilderness would be managed by the Secretary of Agriculture except for the Bear Trap Canyon portion of the wilderness which would be managed by the Secretary of the Interior.

Section 3(c) of S. 96 would remove certain public lands from further wilderness study under section 603 of FLPMA and from management for purposes of protecting their suitability for wilderness designation. Affected areas include the Tongue River Breaks Contiguity, the Madison Tack-Ons, and that portion of the Bear Trap Canyon study area not otherwise designated as wilderness by section 2 of the act.

We have no objection to the provisions of the bill which indicate that the approximately 1,400 acres in Tongue River Breaks Contiguity and the 1,400 acres in the Madison Tack-Ons have been adequately studied for wilderness pursuant to the FLPMA. We note that these areas, being less than 5,000 acres each, were deleted from wilderness study area status under 603 of FLPMA by Secretarial order on December 30, 1982.

The Bear Trap Canyon study area has been studied by the Bureau of Land Management and the Bureau in their study process has recommended this area as suitable for designation as wilderness. That study has not completed departmental or administration review, and we are concerned about the precedent of not being allowed to complete our study process before Congress acts. However, in this case, the study is so far along—the BLM has completed their part of it. Their recommendation is suitable for designation as wilderness, so we have no objection to this provision of the bill.

There is one other provision contained in S. 96 of interest to the Department of the Interior. Section 3(e) would remove some 3 miles of a road and 50 feet on either side of it from the UL Bend Wilderness area in Montana. This area is a part of the UL Bend National Wildlife Refuge administered by the U.S. Fish and Wildlife Service.

The Department has no objection to section 3(e) as currently drafted. Furthermore, section 3(e) of S. 96 represents a substantial improvement over a similar provision contained in S. 2110 when it was introduced in the last Congress. Section 3(a)(5) of S. 2110 would have gone a step further by directing the Secretary of the Interior to open the road to motorized vehicles.

While we believe that opening the road to accommodate its intended use—access for fishing—is compatible with the purposes and goals of the refuge, we believe the application of this compatibility standard as required by the National Wildlife System Administration Act should continue to be made by wildlife resource professionals as would be the case under section 3(e) of S. 96.

This concludes my prepared statement, and I would be pleased to answer any questions.

Senator WALLOP. Thank you very much.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman. I note, Mr. DuBois——

Mr. DUBOIS. I used to have a coach that called me "Dubious."

Senator CHAFEE. Mr. DuBois, on page 2 of your statement you say, "The Department has no objection to section 3(e) as currently drafted." Start at the third paragraph from the bottom.

How about rephrasing that? Are you for it or you just have no objection?

Mr. DUBOIS. Which section?

Senator CHAFEE. I am on page 2, the start of the third paragraph from the bottom. "The Department has no objection to section 3(e) as currently drafted." Are you with me?

Mr. DUBOIS. Yes, sir.

Senator CHAFEE. What do you mean by that? Yes, you have no objection, but are you for it?

Mr. DUBOIS. I would like to ask Mr. Gilmore with the Fish and Wildlife Service to respond to that.

Mr. GILMORE. Good morning, Mr. Chairman, Senator Chafee. As you know, as we have been through these wilderness hearings in the past, the agencies have been responsible for putting together recommendations to Congress for wilderness areas. It has been very difficult through the years to neither be a proponent of or an opponent of any particular set of recommendations that we brought to you. Most of the people we brought said here are the facts. It was up to Congress to decide whether that qualified for wilderness or not. In this particular case, we feel exactly the same way.

Senator CHAFEE. Well, I don't know what the custom is, but it seems to me that sure, these are subjective to a degree, but I personally am always interested in more than just throwing at us the facts. Facts can be interpreted all different ways and you must have a view in the Department, in your agency, as to whether you think it is good or bad.

Mr. GILMORE. Mr. Chafee, the taking of the road out of the wilderness would not significantly affect the management of that wilderness. As a rule, in the wilderness in UL Bend or other ones that run adjacent to other parts of the wilderness, they have not proven to be a significant deterrent in those wildernesses, nor do we think that this one will provide any kind of severe disruption to the purpose of the wilderness.

Senator CHAFEE. I am just asking this in these hearings because I am a novice on this committee, and I certainly have plenty of fish and wildlife experience in other committees, but let me ask you: You say there are other areas that are wilderness that have functioning roads through them. With motorized vehicles?

Mr. GILMORE. No, sir. I said adjacent to them.

Senator CHAFEE. Oh, I see, but that isn't true in this instance? That wouldn't be true in this instance? The road goes right through it, doesn't it?

Mr. GILMORE. It goes through.

Senator CHAFEE. It doesn't go the whole length of it, but it goes into it, what, 3 miles?

Mr. GILMORE. Yes, sir. It does go through what is currently now a wilderness. If the road were taken out of the wilderness, it then becomes adjacent to the wilderness, and that was the point I was trying to make.

Senator CHAFEE. Well, let me try again. Is there any wilderness, current wilderness area, that has a road in it in which motorized vehicles are used?

Mr. GILMORE. Yes, sir, there are wildernesses in the system that have roads through, and I guess that is the answer. Yes, sir, there are.

Senator WALLOP. John, I would just say——

Senator CHAFEE. I am not trying to be difficult here. I am just trying to get experience.

Senator WALLOP. The wilderness in Cumberland Island, Ga., last year was hung up for a little while over this very issue, and it has more than one road.

Senator MELCHER. Would you yield, Senator Chafee? Maybe I can throw some light on this by bringing up some ancient history.

Senator CHAFEE. Sure.

Senator MELCHER. If you will look at that map that we just sent over which is the UL Bend Wildlife Refuge, you will notice on it that the gray areas selected in that is what was designated as UL Bend Wilderness.

You also will note that there is a little minute part of that designated wilderness as small as probably a quarter section. That is isolated from the rest of the wilderness area.

At the time the UL Bend Wilderness proposal was made I was chairman of the Subcommittee on Public Lands in the House and was receptive to moving legislation recommended by the agency, Forest Service or Interior. In this case UL Bend Wilderness was recommended by the Fish and Wildlife Service. We did not have a public hearing on it in Montana. Had we had a public hearing on it we would have been alerted to the necessity of leaving open the road to what is called Mickus Bottom, which is a favorite fishing hole of some of the people in the area.

We were assured, however, by the Fish and Wildlife Service that there was no road being closed that was used by the public. It was frankly an error. It was not a deliberate error. It was just an oversight. Mickus Bottom was effectively closed by about 1½ or 2 miles. I notice the testimony says 3 miles. I'm not sure it is exactly 3 miles, but I suppose that is possible. All of the other roads that were used by the public, as you will note on looking at UL Bend Wildlife Refuge, were let go, and that is why the UL Bend Wilderness area is not contiguous at all. It is separated in several fragments, but the total makes up the UL Bend Wilderness.

When we found out that Mickus Bottom Road had been closed inadvertently, we sought since then to find some wilderness bill that was enacted involving Montana to include this deletion.

Senator CHAFEE. Has the UL Bend Wilderness been a wilderness since 1974?

Mr. GILMORE. Yes, sir. I believe it has.

Senator CHAFEE. Has the road been closed since 1974 to motorized traffic?

Mr. GILMORE. Yes, sir, it has.

Senator CHAFEE. So what happened in the interim? Maybe Senator Melcher could address this. Has the road been closed for what amounts now to 7 years, 8 years, 9 years?

Senator MELCHER. Yes. The road has been closed, and every spring and every summer—never in the winter, but every spring and every summer we get a series of letters from people in the area saying why did you close the road and why do you allow it to be closed? I believe it was closed in 1978, and the fact is that probably they are not using it and probably they are obeying the law. They use all the other roads that wind through this, and to my knowledge they are not violating the law by driving in there, but

obviously the people that are 50 years old and older might not care to walk in there to fish. Those are the ones we hear from, Senator.

Senator CHAFEE. I guess the thing that bothers me is always we get into precedents. I suppose other areas where they have declared roadless wilderness have closed roads?

Mr. GILMORE. Yes, sir.

Senator CHAFEE. Well, let me ask the other part of the question. Are there areas where they have declared them wildernesses where they have left roads open?

Mr. GILMORE. Yes, sir.

Senator MELCHER. Well, Senator, if you would yield further, I think that map is the best evidence you will see of all those fragmented areas. They were left open deliberately. The roads were left open deliberately for access—hunting, fishing, recreational purposes—and that is one of the reasons that UL Bend Wildlife Refuge was created, was to enhance the wildlife habitat and the recreational habitat or the recreational opportunity.

Senator CHAFEE. I may be missing something on this map. I don't see—are there existing roads on the UL Bend Wilderness now? I don't see them.

Senator MELCHER. No, there are not any existing roads on UL Bend Wilderness, but in the UL Bend Wildlife Refuge which contains fragmented parts of the UL Bend Wilderness Area roads were left open deliberately for vehicular use.

Senator CHAFEE. That is a different kettle of fish, isn't it? One you are talking about a wildlife refuge and the other you are talking about wilderness. We are addressing wilderness here.

Senator MELCHER. That is true. I only mentioned that, Senator, in reference to it having been a mistake to close the Mickus Bottom Road. It was inadvertently closed. We were advised in the Subcommittee on Public Lands that we would not be closing any road that was used by the public for recreational purposes. That happened to be an error, and it was not a deliberate error on the part of the Fish and Wildlife Service. It just was a mistake. Otherwise it would have been left open.

Senator CHAFEE. Thank you, Mr. Chairman. I must say I think it is pretty good that this committee can spend this much time fussing over 3 miles of road. It shows that we do care and that attention is given to these matters.

Senator WALLOP. The subcommittee does especially care, as Senator Melcher knows. We have held hearings on each of the wilderness bills that have come in front of us, sometimes to the great dismay of some of our colleagues on our side who had had urgent political need for one or another wilderness area to pass over just such issues as this. That is usually what jams up a wilderness hearing, philosophical differences, but I think it has been the habit pretty much of the subcommittee that when there is a degree of political consensus within the State, which has been Senator Melcher and his colleagues, that we try pretty much to accommodate their understanding of their wilderness needs as they see it and unless there are some really blatant departures from the concept that is there.

I believe it is worth bringing up because that is the only way one can find if departures are blatant, and I am satisfied that this is a

situation that was conceived in error and a mistake in the first place, and the rectification of it does not do real violence to the wilderness concept.

Senator Melcher, do you have any questions?

Senator MELCHER. I only have one question, and that is on Bear Trap Canyon, the 2,300 acres that is Forest Service land.

If this bill were passed as it is drafted now, those 2,300 acres would remain in part of the National Forest System. I recommend that they be made part of the BLM management, and one other section that is BLM land——

Senator WALLOP. I think it is the other way around.

Mr. CROWELL. Senator Melcher has stated it correctly.

Senator MELCHER. The other section of the BLM land that is adjacent to Taylor-Hilgard would be transferred to the National Forest System lands.

Now is that agreeable with the Department of the Interior?

Mr. DUBOIS. Yes, sir.

Senator MELCHER. We would adjust our bill then accordingly. Thank you.

Mr. CROWELL. Thank you.

Senator WALLOP. I would just like to ask Senator Melcher if you have any objection to John Crowell's recommendation on the sufficiency language in the bill?

Senator MELCHER. The question on sufficiency?

Senator WALLOP. For the State of Montana.

Senator MELCHER. For the State of Montana on the RARE II lands is a desirable goal. I would point out, however, that the bill as presented is a delegation recommendation, and all four of us, two House Members and Senator Baucus and I, seek consensus among all four. It is a recommendation I will bring to the attention of the other three members of the delegation, and I would only state that unless it were agreeable to all four of us after consultation with each other, we would not want to burden this bill with it.

The matter of West Pioneer which indeed was one of the three areas of the Lee Metcalf study bill that were designated to be studied first by terms of the bill itself, the act itself, to be studied first by the Forest Service, it has been done and they are each in the same track. The recommendation was for most of the Taylor-Hilgard land to be designated as wilderness, and Mount Henry and West Pioneer to be released.

I had first proposed that to the delegation, that we deal with all three in one bill. That was not acceptable at that time in the last Congress to other members of the delegation and so West Pioneer was dropped. However, I will renew that suggestion again to the delegation, but I will be guided by the thinking and the judgment of my three colleagues from Montana, and I would also say that should we not accept these recommendations to deal with these issues in this bill simply because we would like to see its passage quickly I also recommend to my colleagues from Montana that we promptly consider another bill dealing with those very points because I don't think we should further delay it.

Senator WALLOP. Thank you very much, John. Thank you, Mr. Secretary.

The last witness is Dorothy Bradley of the Montana Wilderness Association. Good morning.

Ms. BRADLEY. Good morning.

Senator WALLOP. Upon your return you bring my regards to my sister, will you?

Ms. BRADLEY. I certainly will. Thank you.

STATEMENT OF DOROTHY BRADLEY, ON BEHALF OF THE MONTANA WILDERNESS ASSOCIATION AND THE MADISON/GALLATIN ALLIANCE

Ms. BRADLEY. Chairman Wallop, Senator Melcher, members of the committee, I am Dorothy Bradley, and I am from Bozeman, and maybe more important, from this area, from Gallatin County. I have been a State representative from that area for 8 years, and also a chairman of the national associate committee in our State house of representatives.

I am presently completing a law degree in Washington, D.C., and this morning I am testifying for the Madison/Gallatin Alliance, the Montana Wilderness Association of which I am a member.

The Montana Wilderness Association and the Madison/Gallatin Alliance support prompt passage of the Lee Metcalf Wilderness and Management Area Act. The wild and undeveloped portions of the Madison Range identified for wilderness designation in the legislation which total 24,000 acres are extremely well suited for wilderness with little resource and user conflict.

Substantial improvements have been made in the legislation since the original introduction of the bill 1 year ago. These improvements include wilderness protection for the Bear Trap Canyon Primitive Area and a portion of the Monument Mountain area adjacent to Yellowstone Park, along with a stronger wildlife management language for the Lee Metcalf management area. The MWA and MGA commend Senator Melcher and other members of the Montana congressional delegation for making these improvements.

The Montana conservation community very much wants to see the magnificent Lee Metcalf Wilderness properly added to our Nation's wilderness system. We also recognize the need to resolve this long-standing land allocation issue so that the resulting land trade between the Forest Service and the Burlington Northern can facilitate management of lands suitable for both wilderness and nonwilderness uses.

At the same time we welcome the opportunity presented by the new Congress to take a brief look at the bill, and in so doing to consider appropriate changes in the legislation that will better balance wilderness protection and the assorted nonwilderness provisions of S. 96.

Thus the MWA and MGA would feel much better about supporting S. 96 with the following modest but important changes.

We strongly urge adoption of the compromise Lee Metcalf Wilderness boundary proposed by Montana Governor Ted Schwinden. Although the Governor's boundary falls far short of our original proposal for a unified Lee Metcalf Wilderness, it does enhance overall wilderness quality by adjusting the four-part Lee Metcalf

Wilderness complex to a three-part wilderness. The unification of the Bear Trap, Spanish Peaks areas with Cowboys Heaven would not only reduce fragmentation of the wilderness resources but more importantly, it would provide a transition of the life zones from grasslands and foothills to alpine within a distance of only 6 miles, which is totally unique to the National Wilderness System.

Also, the Lee Metcalf Wilderness would significantly be upgraded with the inclusion of McAtee Basin, lower Cedar Creek, and upper Beaver Creek as recommended by the Governor.

Second, we urge addition to the Spanish Peaks component of the Lee Metcalf Wilderness of approximately 2,000 acres of wildlands in the Beehive Basin/North Fork Gallatin River drainage which is contiguous to and immediately south of the Spanish Peaks Primitive Area. These lands were recently transferred to Forest Service jurisdiction as a result of a land trade/donation made possible by Michael Ankeny of Big Sky, Mont. It was and remains Mr. Ankeny's wishes that this area be protected and managed as part of the Lee Metcalf Wilderness. We have recently transmitted a topographic map of this proposed boundary addition to Senator Melcher.

I don't know if this is any help, but I thought I would just put this up. This is the whole area. As you can see, and far be it from me to make statements of priority, but the Cowboys Heaven has always been an area of great interest by the conservation community in the State. That is this yellow area. This is the Beehive Basin area that I just referred to of Mike Ankeny, and the other areas, this is the McAtee Basin. I guess the controversy there is somewhat over snowmobiling.

This is the lower Cedar and down in this area is the Beaver. I just wanted to put that up to show you the specific areas and that they are really relatively small.

Senator WALLOP. They may be relatively small, but one can easily see here that it vastly complicates this bill because of the inclusion of the private lands that they necessarily bring with them, and you have a situation now where all these carefully negotiated, I assume carefully negotiated exchanges have taken place with regard to two agencies of Government and several private landowners.

We have got it up to this point, and before we can go any further with this bill we are going to have to, we would have to reenter those negotiations.

Ms. BRADLEY. That is, of course, correct, Senator Wallop. I think the community there really believes that passage soon is very important.

However, we must realize in all the compromises that have been made we are talking about an original proposal that was actually twice the size of the proposal that is presently before your committee, and it seems to me that——

Senator WALLOP. I understand that. The negotiations have brought them to a point now where—and I don't mean to speak for Senator Melcher, he can speak clearly for himself—but to the point now where you have a variety of interested and conflicting parties in agreement. It just seems to me that that would delay for a year or better any hope that we would get action on the bill.

Ms. BRADLEY. Well, that is, of course, one of the possibilities that has to be contemplated, but representing the people, I do hear I want you to know those small areas, and I really do think they are small, are considered very important, and that was my message.

Senator WALLOP. Yes.

Ms. BRADLEY. Three, we remain convinced that the Lee Metcalf management area must be closed to nonwinter motorized recreation in order to conserve and protect the grizzly bear and elk habitat values which are recognized in section 2(c)(1) of S. 96.

We recommend that 2(c)(2) be amended on page 3, line 12, after the word "area" to include, and this is a quote, "except that nonwinter motorized recreation shall not be permitted within the area".

Again, this is felt to be a compromise. That is, the people understood in this area, have recognized that the winter motorized vehicle access will take place, and they would hope that, as the other half of the compromise, that it would be limited just to the winter.

Four, we strongly recommend that section 3(c)(2)(e) be deleted in its entirety. This is page 7, lines 7 through 13, which provides for a nonwilderness corridor of 50 feet on either side of a road within the UL Bend Wilderness. Our concerns are based on a potentially damaging national precedent of establishing a road corridor through a designated wilderness as described in the attached Fish and Wildlife Service memoranda. We request that document be made part of the official hearing record.

We are not unsympathetic to the desire of the elderly couple who wishes to drive to a favorite fishing spot in the Fort Peck Reservoir. Administrative provision can and should be made to accommodate the situation.

Also there is adequate existing and proposed vehicle access routes to Fort Peak in proximity to Mickus Bottom, but under no circumstances should we jeopardize the entire National Wilderness System with a dangerous precedent that could be used to justify other roads through other wildernesses, and I just feel it is slightly unfortunate that Senator Chafee had to be called away because a lot of us do feel strongly about that, and I do appreciate, and others do, the fact that this committee is spending so much time fussing over what he called a 3-mile access.

We respectfully urge adoption of these four suggested amendments to S. 96 and quick passage of the Lee Metcalf Wilderness and Management Area Act.

We have appreciated this opportunity to offer testimony on an issue that literally helped establish a quarter century ago the Montana Wilderness Association, the oldest statewide grassroots wilderness organization in the United States, and Senator, just speaking for myself, I wanted to add the fact that I have spent a fair amount of time in the Lee Metcalf area, that being my home territory, starting with backpacking when I was about 10 years old and most recently with the back side of Lone Mountain through the Cedar Drainage that I referred to on the map.

For those of you who have seen it, you know that it would be difficult to find a more fruitful piece of land. What really amazed me is the local grassroots support for even the larger original, the twice-as-big original proposal, has been absolutely overwhelming,

arising partly I think because of the dedication to that area and partly just for the great enthusiasm of such an appropriate tribute to Senator Metcalf.

As you know, Senator, Montana had a special champion in Senator Metcalf, and this does indeed seem to be the right testimonial for one who led such a committed life for our State.

I recently thought of Lee Metcalf in Spanish Peaks when I read a quote by Allard specifically about Montana where he said:

> Perhaps only those who live there can fully appreciate that place and that space and what it can do for the soul, just as perhaps only those who live there can really understand the penalty we will all pay if we fail to recognize that there can be no afterlife for a place that started out as heaven.

Thank you very much for this opportunity. If you have any questions, I will be glad to answer them as best I can, or submit a detailed answer for the record.

Senator WALLOP. I thank you for your testimony. Your recommendation that there be administrative flexibility with regard to that road is simply prohibited by the act. It is a fine recommendation, but we can't do it. The only way it can be done under that road, can be dealt with, is either totally remove it as the bill has done, or totally close it, but there is not administrative remedy for elderly people or anything else available under the Wilderness Act.

Ms. BRADLEY. I think the feeling is, I think the truth of the matter is that this little rugged area of a road, if it can be called a road, is used by about two elderly couples, and that use is going to diminish and end if it is somewhat ignored, and that is probably what should be done. It will fade away, and that is a very different kind of accommodation than actually putting a significant corridor with a lot of territory on each side through a wilderness area which there is a lot of concern would create an unfortunate precedent.

Senator WALLOP. Well, you are suggesting that this committee, that it make a recommendation somehow or another to the Forest Service, managers of the Fish and Wildlife Service, that they ignore the law, and you know, we spend a good deal of the time in our oversight capacity asking them to enforce it.

I hear and understand what you are saying, but I just don't think that is a very appropriate recommendation.

Senator Melcher, do you have any questions?

Senator MELCHER. Well, Dorothy, there has been no one that has advocated anything for UL Bend except what was believed to be the case when UL Bend, a portion of the UL Bend Wildlife Refuge was made wilderness. Perhaps you haven't looked at the map. We will show it to you.

The UL Bend Wilderness is a fragmented wilderness. It has four different parts to it. Is that right? There are two places where it is nonwilderness simply because State land intervenes. One is small, a quarter section, but when the bill was passed it was passed with a clear understanding that no road that was being used—of course, it is used by many more people than the two elderly couples you may happen to know. It is used by quite a few people in the area because it is a rather popular fishing area.

If we had known that this road was being closed we would have adjusted the boundary at that time. Harry Crandall was on the

staff of the Public Lands Subcommittee, and he still is, besides being a representative of the Wilderness Society here in Washington. Harry has a career as a professional with the Fish and Wildlife Service, and we simply were unaware that the map we were presenting and recommending for passage, although fragmented, also contained the closing of a road. Otherwise we would have corrected it at the time before it was passed, so this correction is long overdue, and it does not violate anyone's sense of the management of the area, or does it detract from that area. It is simply an oversight at the time of passage, and we would hope to correct it in this bill.

Ms. BRADLEY. Just to respond, Senator Melcher, the point I am trying to make is, No. 1, there are alternative access routes that are not terribly inconveniencing for the people who happen to care about this one.

Senator MELCHER. Not to Mickus Bottom; this is the only way to get to Mickus Bottom.

Ms. BRADLEY. There are alternatives to Fort Peck.

Senator MELCHER. Yes. The shoreline is a very long shoreline, and Mickus Bottom just happens to be a very fine fishing hole.

Despite the very long shoreline of the Fort Peck Reservoir, there are no other areas in this region, in this rather large part of the north side of the Missouri, that are favored as much as this for fishing. Those who can walk in, who feel inclined to walk in, still do, but what we are trying to do is correct the situation for those who cannot walk in, that they still have the same opportunity that they had before.

Ms. BRADLEY. Well, there are other routes I guess I should say in the proximity of Mickus Bottom. That is what I am trying to say.

Second, is that the demand, this should be recognized by the committee, is very small. It applies to only a few people, and chances are it would just simply fade away in the near future.

And third, the concern, of course, is for a really unfortunate precedent. It is not just me that is thinking this. It is a substantial number of people, and to try to create a bad precedent just to accommodate the desires of a few people would seem inappropriate in this particular piece of legislation.

Senator MELCHER. I don't want it to go by that we are making other exceptions to correct other areas in this very bill. In one situation we were removing from wilderness designation another error by the Forest Service where 40 acres or approximately 40 acres of the Beartooth-Absaroka Wilderness Area, it is a parking lot for the Forest Service. We are removing that also. That is a precedent if you want to describe it as a precedent, but it is simply an error.

It doesn't make any sense to include the 40-acre parking lot area in wilderness. It is a violation of the law. The alternative is to have the option of not allowing it for parking and making them have another parking area. That would be disruptive of other areas of the forest. Another correction is removing some private land from the same wilderness. It simply creates a management problem to have the people in the Beartooth-Absaroka, so from time to time we are just going to have to make corrections where there are errors made in the original passage.

In the case of Beartooth-Absaroka when we put it in the wilderness and designated it, everything within the map, to become wilderness, we were not well advised on these two points, and it is necessary to make a correction in order to have adequate management for the private land, the access to the private lands. If we don't take it out it is going to create more problems for the Forest Service, more degradation. The same with the parking lot—they can have a parking lot somewhere else, but it is going to create a bigger problem, and in the long run is poor land management by the Forest Service than if we correct the error that was made when the boundary was drawn.

Mickus Bottom is not used by very many people, but it is used by enough people. It is the most popular part of the wildlife refuge, of the UL Bend Wildlife Refuge, for recreational purposes, and that is the reason for the Fish and Wildlife Service and Congress having designated the UL Bend Wildlife Refuges, both for wildlife and for recreational opportunity for the people that live in the area.

I think if you had a personal on-site investigation of this at UL Bend you would agree, as almost everyone else has that has been there, that taking the road out of the wilderness and allowing that recreational opportunity is by far the best judgment, and that does include members of the Montana Wilderness Association also who have done on-site investigation. Some of the members of the Montana Wildlife or Montana Wilderness Association who have been there personally believe that we are doing the right thing in making this correction now.

Senator WALLOP. Do you have any other questions?

Senator MELCHER. No, I have no other except to thank Dorothy for her testimony.

Ms. BRADLEY. Thank you again.

Senator WALLOP. Thank you, Dorothy. We appreciate your testimony.

That concludes the witness list. Again, my apologies, Senator Melcher, for being a little bit late this morning.

Senator MELCHER. I perfectly understand. I was there the day before yesterday in a trap for an hour.

Senator WALLOP. We will get this through the subcommittee as quickly as we can and the bill is on the agenda, and I would ask the folks who have some comments that they wish to make, to remind them that it is on the committee's agenda and the hearing having been held, we have nothing to stand in the way of its progress. If there are comments you wish to make, the sooner the better.

The subcommittee stands adjourned.

[Whereupon, at 11:10 a.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this 20th day of November, 1981, by and between the Forest Service, United States Department of Agriculture, hereinafter referred to as FS, and Burlington Northern Railroad Company, a Delaware corporation, hereinafter referred to as BN, for the purpose of documenting joint understandings in relation to a proposed wilderness and legislated exchange of lands within the Gallatin and Beaverhead National Forests, Montana.

WITNESSETH:

WHEREAS, there is a proposal that the Congress of the United States establish a wilderness within the Taylor-Hilgard area,

WHEREAS, there are intermingled National Forest and BN ownerships within the Taylor-Hilgard area,

WHEREAS, in the event a wilderness is created, it is the intent to consolidate Federal ownership within the wilderness.

NOW, THEREFORE, BN and the FS hereto agree as follows:

1. Within 45 days following passage of Federal legislation which establishes the wilderness and consummates the associated land exchange, BN will execute and transmit to the FS a warranty deed, conveying to the United States those lands described in Exhibit A, attached hereto and made a part hereof, said conveyance to be subject only to such reservations and encumbrances as are of record and acceptable to the Secretary of Agriculture.

2. Within 45 days following receipt of such warranty deed from BN, the United States shall issue patent to those lands described in Exhibit B, attached hereto and made a part hereof, said patent to convey ownership of said lands to BN subject only to (1) a reservation for ditches and canals as provided for in the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945), and (2) such reservations and encumbrances as are of record.

3. BN accepts the responsibility accruing from this exchange to provide and manage three (3) public recreational accesses, including trail head facilities as needed, in the Jack Creek drainage over routes approximately as illustrated on Exhibit C, attached hereto and made a part hereof, to utilize National Forest lands.

   The recreational accesses will originate from the Jack Creek Road and will connect to the existing FS trails at points A, B, and C, as shown on Exhibit C.

4. It is further understood that the FS will, at the time patent to the lands described in Exhibit B is conveyed to BN, relinquish the interest of the United States in the Hammond Creek Road across Section 6, T. 6 S., R. 2 E., and Section 32, T. 5 S., R. 2 E.

5. It is further understood that this agreement will terminate if the required wilderness and related land exchange legislation is not passed by Congress by December 31, 1981.

IN WITNESS THEREOF, the parties hereto cause this agreement to be properly executed by their authorized representatives.

Regional Forester
Forest Service

Vice President, Timber and Land
Burlington Northern Railroad
Company

EXHIBIT A

T. 6 S., R. 1 E., P.M.M.

Sec. 13, all.

T. 6 S., R. 2 E., P.M.M.

Sec. 1, Lots 13, 14, N½, W½SE¼.
Sec. 19, all fractional;
Sec. 27, all;
Sec. 29, all;
Sec. 31, all fractional;
Sec. 33, all.

T. 7 S., R. 1 E., P.M.M.

Sec. 1, all fractional;
Sec. 3, Lots 1 and 2, S½NE¼;
Sec. 11, N½NE¼.

T. 7 S., R. 2 E., P.M.M.

Sec. 5, all fractional;
Sec. 15, all;
Sec. 17, all;
Sec. 21, all;
Sec. 25, all;
Sec. 27, N½, SE¼, E½SW¼;
Sec. 35, N½.

T. 7 S., R. 3 E., P.M.M.

Sec. 31, all fractional.

T. 8 S., R. 1 E., P.M.M.

Sec. 25, N½.

T. 8 S., R. 2 E., P.M.M.

Sec. 1, all fractional;
Sec. 3, all fractional;
Sec. 9, All;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;

T. 8 S., R. 2 E., P.M.M. (Continued)

Sec. 17, all;
Sec. 19, all fractional;
Sec. 21, all;
Sec. 23, all;
Sec. 25, all;
Sec. 27, all;
Sec. 33, E½;
Sec. 35, all.

T. 8 S., R. 3 E., P.M.M.

Sec. 5, all fractional;
Sec. 7, all fractional;
Sec. 17, all;
Sec. 19, all fractional;
Sec. 21, W½;
Sec. 29, all;
Sec. 31, Lots 1 and 2, NE¼, E½NW¼.

T. 9 S., R. 2 E., P.M.M.

Sec. 1, all fractional;
Sec. 11, all.
Containing 24,007.23 acres, more or less, all in Madison and Gallatin Countie
State of Montana.

EXHIBIT B

T. 5 S., R. 1 E., P.M.M.

Sec. 24, S½;
Sec. 26, all;
Sec. 34, Lots 1, 2, 3, 4, SE¼;
Sec. 36, all, less HES 187 and 190.

T. 5 S., R. 2 E., P.M.M.

Sec. 30, all fractional;
Sec. 32, all;
Sec. 34, S½.

T. 6 S., R. 1 E., P.M.M.

Sec. 2, all fractional;
Sec. 12, all.

T. 6 S., R. 2 E., P.M.M.

Sec. 2, all fractional;
Sec. 4, all fractional;
Sec. 6, all fractional;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all fractional;
Sec. 14, all;
Sec. 16, all;
Sec. 22, all;
Sec. 24, all.

T. 6 S., R. 3 E., P.M.M.

Sec. 18, all fractional.
Containing 11,810.47 acres, more or less, all in Madison County, State of Montana.

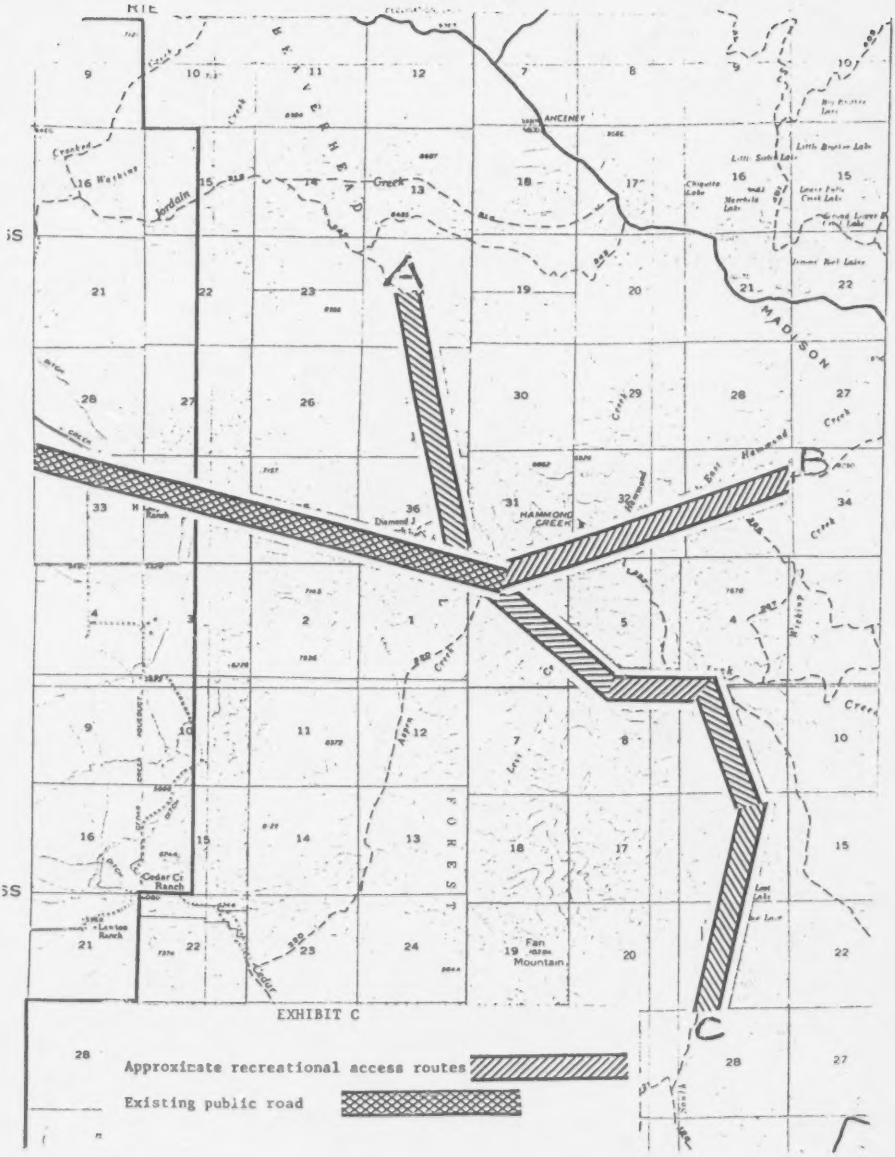
Approximate recreational access routes
Existing public road
HAMMOND CREEK
Fan Mountain
Cedar Ci Ranch
Diamond J
MADISON
A
B
C

EXHIBIT C

Statement

of the

Rocky Mountain Oil and Gas Association

before

Senate Energy Committee

Subcommittee on Public Lands and Reserved Water

The Rocky Mountain Oil and Gas Association (RMOGA) wishes to submit the following statement on S. 96, the Lee Metcalf Wilderness and Management Act of 1983, and requests that it be made part of the official hearing record.

RMOGA's most serious objections to S. 96 do not concern the wilderness designations. While we believe wilderness designations are not necessary to protect environmentally-sensitive areas from irreparable harm, we do not quarrel that the areas in question are indeed special and worthy of protective management.

RMOGA's traditional objection to wilderness designation, however, stems only from the viewpoint that lands considered for wilderness designation should first be studied for their mineral potential in order to enable Members of Congress to make sound, informed decisions as to the highest and best use of the land. Congress itself provided for this opportunity in the 1964 Wilderness Act, allowing a twenty-year period in which designated wilderness could be explored for their mineral potential and, if discoveries were made, produced. Because there has been such opposition to the possibility of mineral development in designated wilderness areas, we are even more adamant about the need for lands to be inventoried for energy and mineral values before they are locked away in a wilderness designation.

Designation of any areas as wilderness is therefore premature if an adequate mineral evaluation has not been performed, and such designation is unnecessary to protect wilderness values.

One of our most serious objection to S. 96 concerns the establishment of the new management concept embodied in designation of the Lee Metcalf Management Area. National Forest lands are managed in many locations to provide ultimate protection for wildlife and its habitat, without the need for legislation. Statutorily restricting this area to wildlife management is akin to designating it as a wilderness area with roads, or as a wildlife refuge. We find this approach both inappropriate and unnecessary. In addition, we believe that such a designation presupposes that the area cannot be managed to provide for a multitude of uses -- a fallacy only perpetuated by this type of legislation.

Oil and gas activities, with appropriate restrictions, have proved to be entirely compatible with sensitive environmental values. We have numerous examples of the compatibility of these operations with wildlife, as well as within delicate ecosystems. Mineral operations are temporary in nature, and our experience shows that, with proper planning, lands disturbed by this activity can be completely reclaimed.

In addition, S. 96 does not include adequate release language. This lagislation would only release lands from wilderness study for a period of up to ten years from completion of first generation land management plans. We believe this time-period is insufficient, and that permanent release of lands determined to be unsuitable for wilderness designation is the only reasonable way to end the interminable study of these lands.

We have seen what has happened with legal challenges to the RARE II Final Environmental Impact Statement; the Forest Service has no alternative but to conduct another wilderness review of RARE II lands, and it has already begun this lengthy restudy. All lands studied under RARE II, whether recommended for wilderness or non-wilderness, will have to be reevaluated, extending the Roadless Area Review and Evaluation Program, which began in 1971, for an indeterminate amount of time. It is inexcusable, in our estimation, to have lands off-limits to multipe use activities due to protracted wilderness review programs for more than twelve years, and we encourage the Congress to resolve this matter once and for all.

Prudence dictates a reasonable solution to this problem that designates lands as wilderness and releases lands considered unsuitable for non-wilderness uses. It should not be difficult to support this fair and balanced treatment of the wilderness and wilderness study issue.

In conclusion, RMOGA withholds support of S. 96 primarily because:

a) it establishes a new land classification which amounts to a wilderness areas with roads dedicated to protection of wildlife. Such an area should not be statutorily closed to mining and mineral leasing as Forest land management plans can adequately protect wildlife and its habitat while providing for other uses where compatible;

b) it fails to incorporate adequate language providing permanent release from further wilderness study of areas recommended for non-wilderness by the Forest Service.

Finally, we strongly recommend that the Montana Delegation develop comprehensive legislation covering all RARE II lands in that state not mentioned in this bill. Such legislation must address the dire need for permanent release and for RARE II legal and factual sufficiency language, in order to prevent the inevitable RARE III program now getting underway.

Thank you for the opportunity to present our views on this legislation.

THE WILDERNESS SOCIETY

FOUNDED IN 1935

18 February 1983

The Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands
and Reserved Water
United States Senate
Washington, D.C. 20510

Re: Statement for the Record on S.96,
February 17, 1983

Dear Senator Wallop:

Please include this letter in the hearing record on S.96, February 17, 1983.

At the hearing Assistant Agriculture Secretary John Crowell suggested that certain changes be made in S.96. In particular, he asked: (1) that "sufficiency" language for the RARE II EIS be included for lands in Montana, (2) that the release language be changed from "soft" release to "hard" release, (3) that the Lee Metcalf Management Area provisions be deleted from the bill, and (4) that the West Pioneers Wilderness Study Area be released. We oppose all of these changes for the following reasons:

1. Sufficiency language is not appropriate in a bill which does not deal with the RARE II recommendations on a statewide basis.

S.96 does not address the RARE II recommendations on a statewide basis. Indeed, the bill is not primarily a response to RARE II, but to Public Law 95-150, a Congressionally-mandated study of certain roadless areas in Montana. RARE II studied a different 5 million acres of roadless areas. S.96 addresses only a fraction of these areas in designating parts of RARE II area 1549 as wilderness and releasing two RARE II areas (identified in the bill as proposed Tongue River Breaks Wilderness of 16,500 acres and parts of RARE II area 1549 not designated as wilderness by the Act).

We have no objection to the inclusion of sufficiency language for a state as part of the sufficiency-release compromise adopted by Congress in enacting statewide RARE II bills for Colorado, New Mexico, Alaska, Indiana, Missouri, and West Virginia. S.96 is not the equivalent bill for Montana. The RARE II recommendations for Montana will be considered in separate legislation. In

1901 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20006

(202) 828-6600

that legislation sufficiency language will be appropriate. Sufficiency language is no more appropriate in S.96 than it would be in legislation to establish a federal court house.

2. Hard release language should not be substituted for the accepted soft release formula.

Assistant Secretary Crowell suggests -- as he has done with every wilderness bill before the last Congress -- that the soft release formula be changed to hard (or permanent) release. Congress has rebuffed this suggestion in all wilderness legislation passed to date and it should continue to do so. As we have testified in detail before this subcommittee, hard release forbids the Forest Service from ever again studying released lands for wilderness or managing these lands as wilderness without express Congressional authorization. As such, hard release runs counter to all laws governing the national forests which provide that wilderness is one of the uses which should be at least considered in the forest planning process. Soft release is the formula which has been adopted by Congress to accommodate the requirements of these laws and provide the requisite certainty in forest planning. The soft release provisions of S.96 should remain unchanged.

3. The Lee Metcalf management provisions should stay in the bill.

Assistant Secretary Crowell asks the committee to delete the provisions governing the 35,500 acre Lee Metcalf Management Area on the assertion that management of the area can be effectively handled in the forest plan. We respectfully disagree. Management prescriptions for the area have been the subject of intensive negotiations over an extended period of time. They are needed to make it clear that wildlife values are paramount, that the area is withdrawn from mining and mineral leasing, that no timbering or road construction is permitted, and that vehicular use is permissible only where compatible with wildlife protection. If this language is deleted, any of the proscribed activities could take place. We believe that Congressional guidance for this important wildlife area is essential.

4. The West Pioneers WSA should not be released in this bill.

S.96 is a delicate compromise. To add release of the 148,000 acre West Pioneers WSA would drastically upset the balance. The proper management regime for this area is a matter of intense dispute. It is an integral part of the Bighole River Watershed and has high wilderness attributes. S.2111 in the 97th Congress would have released the West Pioneers, and was vigorously opposed by Montana conservationists. Release is inappropriate in S.96.

Mr. Chairman, we appreciate the opportunity to submit these comments, and we hope that the committee will consider them in its deliberations on S.96.

We wish to commend Senator Melcher for his willingness to make changes which have greatly improved the bill. We do, however, still question the U-L Bend road provision. While the language has been changed for the better to take the road out of the wilderness instead of opening the road in the wilderness, we are concerned about the necessity and propriety of including this provision.

We urge expeditious consideration of the bill by the committee.

Very truly yours,

Peter D. Coppelman

Peter D. Coppelman
Director of Forest Wilderness Programs

Western Regional Council

BOARD OF TRUSTEES
Bruce M. Rockwell
Chairman of the Board
Chairman of the Board
Colorado National Bank
Harry Blundell
Vice-Chairman of the Board
President and
Chief Executive Officer
Utah Power and Light
Company
Maxie L. Anderson
Chairman of the Board and
Chief Executive Officer
Ranchers Exploration and
Development Corporation
Richard M. Bressler
President and
Chief Executive Officer
Burlington Northern
Harry M. Conger
President
Homestake Mining Company
Ralph F. Cox
Executive Vice President
Atlantic Richfield Company
Joe L. Gremban
President
Sierra Pacific Power
Company
William A. Griffith
President and Chief
Executive Officer
Hecla Mining Company
A. H. Kinneberg
Senior Vice President
and General Manager
Phelps Dodge
Corporation
William D. Owens
President
Northwest Exploration
Company
L. Merrill Rasmussen
President and
Chief Executive Officer
Husky Oil Company

February 10, 1983

The Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands
and Reserved Water
3204 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Wallop:

On February 17, your Subcommittee has scheduled a hearing on S.96, the "Lee Metcalf Wilderness and Management Act of 1983". The Western Regional Council will not be able to testify on February 17 but it does request that this letter and the attached statement be made part of the formal hearing record.

You will notice that the attached statement deals with two issues, release of lands not found suitable for designation as wilderness areas and language stating that the RARE II EIS is sufficient. Section 3(a) (b) (c) do deal with these two issues. However, this language calls for release until the next planning cycle which could be as early as 1986 or 1990, three to seven years from now. The WRC contends that the release period is inadequate. The New Mexico and Colorado RARE II bills, acted on in 1980, contained similar release language. The release period in these bills was judged to be inadequate at that time and this was three years ago. Planning for business and industry cannot be done in three years. In fact, a minimum ten year cycle is common in industry. The type of release language in the Montana bill continues the uncertainty that has plagued industry throughout the RARE II process. The WRC's release language, which calls for release until the year 2000, at least provides industry a period of time, seventeen years, within which there would be less uncertainty and an adequate planning period.

The Western Regional Council would appreciate your consideration of its views.

Sincerely,

George Dibble

George Dibble
Chairman
Wilderness ad hoc Committee

Enclosure

P.O. Box 8144, Salt Lake City, Utah 84108 · Telephone (801) 363-7997

ISSUE BRIEF

WILDERNESS AD HOC COMMITTEE

During the last session of Congress, the Western Regional Council testified at least six times on two issues:

1) The release to non-wilderness managements status of all lands found to be unsuitable for wilderness designation through the RARE II process; and

2) the retention of the last year of access for exploration and development contained in the Wilderness Act (Section 4(d)(3)).

For the past decade the management status of at least one-third of the National Forest System has been in limbo because Congress has not statutorily proclaimed whether it is to be wilderness or non-wilderness. The wilderness process has been, and continues to be, embroiled in studies, restudies, and court cases. From 1977 to 1979, the Forest Service studied its roadless areas for a second time to determine which areas should be and should not be recommended for wilderness. Today, in 1983, the Congress and the courts have still not completely resolved this issue.

This long debate has created enormous uncertainty and insecurity that only Congress can resolve. This uncertainty particularly impacts the energy and natural resource industries. Each public land withdrawal, each acre awaiting final determination, further limits acreage accessible to exploration and development. These withdrawals have serious implications for this nation's future supplies of energy and minerals, the U.S. balance of payments, and the domestic rates of inflation.

The Wilderness Act of 1964 provides for the location of mining claims and exploration in wilderness areas until the end of 1983. Deposits discovered by that date may be developed after 1983. It is clear that the Congress' intent in placing the 1983 deadline for exploration in wilderness was to permit the orderly development of valuable mineral deposits in such areas and to be certain that valuable mineral deposits were not forever locked up.

As you may know, the omnibus wilderness protection bills, S.2801 and H.R.6542, did not pass in the last session. However, the final Interior appropriations bill (FY 83) adopted the language contained in the Senate measure regarding exploration for oil, gas, and minerals in wilderness areas. Oil and gas leasing were prohibited in designated wilderness areas or wilderness study areas, although companies with valid existing leases prior to October 1, 1982, would be allowed to explore or develop mineral resources, according to the appropriations measure. The House bill only would have allowed development of valid existing leases in wilderness study areas.

Western Regional Council

BEST COPY AVAILABLE

The conference report stated that exploration activities would be allowed in wilderness and study areas for the purposes of compiling a resource inventory, but that such activities would be required to be conducted in a manner compatible to preserving the wilderness environment. The use of explosives in such activities was specifically banned.

The appropriations measure also allowed "slant drilling," - drilling diagonally from an an areaa adjacent to but outside a wilderness areas into the subsurface of a wilderness area.

The conference report continued the ban on oil and gas leasing on the Outer Continental shelf off the coast of northern California, but the conference committee modified the southern boundary of the area to which the prohibition applies. In action December 16, the conference committee voted to cut approximately 700,000 areas from the 9.7 million acre area protected by the House measure. The revised boundary, about 20 miles north of the boundary set by the House bill, bisects Morro Bay near San Luis Obispo, California. The entire area affected by the leasing ban extends south from the Oregon border a distance of about 400 miles.

Under the appropriations measure, the Interior Department would be allowed to issue up to three leases for the disposal of oil shale wastes and other mining materials. The conference report also deleted language contained in the House measure which would have banned mining in National Park units unless specifically authorized.

The WRC will continue to work, in 1983, for reasonable access to the public lands for the purposes of energy and mineral exploration and development because it thinks this general issue is of critical importance to this country.

The WRC will also continue to pursue the addition of release language to state RARE II bills which come before Congress. Language which the WRC finds acceptable is as follows:

> National forest system lands in the State of _____ not identified in this act as additions to the National Wilderness Preservation System or heretofore designated by an Act of Congress as components of the National Wilderness Preservation System, shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of current and future land management plans which are approved before December 31, 2000, and which are required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (as amended by the National Forest Management Act of 1976) to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

BEST COPY AVAILABLE

An issue which has come to the fore recently is whether the RARE II EIS is a sufficient examination of National Forest System lands.

The U.S. Court of Appeals, on October 22, issued a decision upholding the U.S. District Court decision in California v. Bergland. Soon after the completion of the second Roadless Area Review and Evaluation (RARE II) in 1979, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Statement insofar as its consideration of wilderness in more than 40 areas of California involving more than 900,000 acres.

In January, 1980, Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in California v. Bergland, held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values is completed by the Department of Agriculture in accordance with the National Environmental Policy Act.

The District Court said that the RARE II Final Environmental Impact Statement was inadequate to support the nonwilderness designations in the 47 disputed areas in California, and violated the NEPA. It ruled that the EIS was deficient in three respects:

1. The EIS did not contain sufficient site-specific data to support the non-wilderness designations;

2. The EIS did not consider an adequate range of alternatives; and

3. The Forest Service did not give the public adequate opportunity to comment on the RARE II Program.

In RARE II, 62 million acres of roadless areas in the National Forests were studied for their suitability for Wilderness preservation or for other uses. The decision recommended 15.4 million acres for Wilderness designation, 36 million acres for non-wilderness uses, and 10.6 million for further study. The areas in California at issue in the suit were recommended for non-wilderness uses.

The Appeals Court reversed in part but affirmed in all important aspects the decision of the District Court. The Karlton injunction remains in place and would:

-- prohibit the Forest Service from taking any action that may change the wilderness character of any area in dispute until and unless an EIS prepared and

BEST COPY AVAILABLE

circulated in accordance with NEPA has been filed which considered the impact of such action upon the wilderness characteristics of such areas;

-- prohibit the Forest Service from relying on RARE II non-wilderness designations and the RARE II environmental statement's consideration of the impact on non-wilderness designations on the wilderness qualities of any area in dispute when preparing NFMA unit plans;

-- and the Forest Service is specifically ordered to consider, evaluate, and assess wilderness values and possible wilderness classification under the Wilderness Act for each area in dispute prior to promulgation of such plans.

This decision will make it easy for environmental groups to tie up development on all National Forest roadless areas in states of the 9th Circuit (California, Oregon, Washington, Idaho, Montana, Nevada, Alaska, and Arizona), and probably other states as well.

The Appeals Court action places the entire RARE II process in jeopardy. Current maangement of National Forest system lands could become chaotic, requiring crisis action by Congress to correct the court interpretation.

The WRC will continue to work for the inclusion of "sufficiency language" in state RARE II bills which would end this chaotic situation and will protect a state's RARE II legislation from continuing judicial review.

The WRC would like to ask for your support of the WRC's positions on these issues. If you would like more information on these issues, please contact the WRC.

BEST COPY AVAILABLE

MONTANA WILDERNESS ASSOCIATION

STATEMENT OF THE MONTANA WILDERNESS ASSOCIATION ON "THE LEE METCALF WILDERNESS AND MANAGEMENT AREA ACT--S.96" SUBMITTED TO THE SENATE ENERGY & NATURAL RESOURCES COMMITTEE FOR INCLUSION IN THE OFFICIAL HEARING RECORD--February 17, 1983

Submitted By:

Joan Montagne, President, Montana Wilderness Association
Bill Cunningham, Conservation Director, Montana Wilderness Association
Dr. Richard Tenney, President, Madison/Gallatin Alliance

The Montana Wilderness Association (MWA) and the Madison/Gallatin Alliance (MGA) supports prompt passage of the LEE METCALF WILDERNESS & MANAGEMENT AREA ACT--S.96. The wild and undeveloped portions of the Madison Range identified for wilderness designation in the legislation, which total 244,000 acres, are extremely well suited for wilderness with little resource and/or user conflict.

Further, substantial improvements have been made in the legislation since the original introduction of the bill one year ago. These improvements include wilderness protection for the Bear Trap Canyon Primitive Area and a portion of the Monument Mountain area adjacent to Yellowstone Park along with stronger wildlife management language for the Lee Metcalf Management Area. The MWA and MGA commend Senator Melcher and the other members of the Montana Congressional Delegation for making these improvements.

The Montana conservation community very much wants to see the magnificent Lee Metcalf Wilderness properly added to our Nation's Wilderness System. We also recognize the need to resolve this long-standing land allocation issue so that the resulting land trade between the Forest Service and Burlington Northern can facilitate management of lands suitable for both wilderness and nonwilderness uses. At the same time we welcome the opportunity presented by the new Congress to take a brief second look at the bill and, in so doing, to consider appropriate changes in the legislation that will better balance wilderness protection with the assorted nonwilderness provisions of S.96.

Thus, the MWA and MGA would feel much better about supporting S.96 with the following modest but important changes:

(1) We strongly urge adoption of the compromise Lee Metcalf Wilderness boundary proposed by Montana Governor Ted Schwinden. Although the Governor's boundary falls far short of our original proposal for a UNIFIED LEE METCALF WILDERNESS it does enhance overall wilderness quality by adjusting the 4-part Lee Metcalf Wilderness complex in S.96 to a 3-part wilderness. The unification of the Bear Trap/Spanish Peaks areas with Cowboys Heaven

P.O. Box 635 • Helena, Montana 59624 • (406) 442-0597

would not only reduce fragmentation of the wilderness resource but, more importantly, it would provide for a transition of life zones from grassland/foothills to alpine within a distance of only 6 miles--unique to the National Wilderness System! Also, the Lee Metcalf Wilderness would be significantly upgraded with the inclusion of McAtee Basin, the South Fork of Jack Creek, lower Cedar Creek and Upper Beaver Creek, as recommended by the Governor.

(2) We urge addition to the Spanish Peaks component of the Lee Metcalf Wilderness of approximately 2000 acres of wildlands in the Beehive Basin/North Fork Gallatin River drainage which is contiguous to and immediately south of the Spanish Peaks Primitive Area. These lands were recently transferred to Forest Service jurisdiction as a result of a land trade/donation made possible by Michael Ankeny of Big Sky, Montana. It was and remains Mr. Ankeny's wishes that this area be protected and managed as part of the Lee Metcalf Wilderness. We have recently transmitted a topographic map of this proposed boundary addition to Senator Melcher.

(3) We remain convinced that the Lee Metcalf Management Area must be closed to non-winter motorized recreation in order to conserve and protect the grizzly bear and elk habitat values which are recognized in section 2(c)(1) of S.96. We recommend that section 2(d)(2) be amended on page 3, line 12 after the word "area": "except that non-winter motorized recreation shall not be permitted within the area."

(4) We strongly recommend that section 3(c)(2)(e) be deleted in its entirety (page 7, lines 7 through 13) which provides for a nonwilderness corridor 50 feet on either side of a "road" within the U.L. Bend Wilderness. Our concerns are based on the potentially damaging national precedent of allowing a road within an established wilderness as described in the attached Fish & Wildlife Service memorandum. We request that this document be made a part of the official hearing record. We are not unsympathetic to the desire of the elderly couple who wishes to drive to a favorite fishing spot on Fort Peck Reservoir. Administrative provision can and should be made to accommodate the situation. Also, there is adequate existing and proposed vehicle access routes to Fort Peak in proximity to Mickus Bottom. But under no circumstances should we jeopardize the entire National Wilderness System with a dangerous precedent that could be used to justify other roads in other wildernesses.

We respectfully urge speedy adoption of these four suggested amendments to S.96 and quick passage of the Lee Metcalf Wilderness and Management Area Act. We've appreciated this opportunity to offer testimony on an issue that literally helped establish a quarter century ago the Montana Wilderness Association--the oldest statewide grass roots wilderness organization in the United States.

Bill Cunningham

BILL CUNNINGHAM
CONSERVATION DIRECTOR, MWA
February 17, 1983

12/21

FILE COPY

Surname	Date
Caswell	12/6/92
act. RF J Allen	12-6
Palmer	12/6
Mulligan	12/4
[illegible]	12/7

DEC 7 1992

Memorandum

To : Legislative Counsel

Through: Assistant Secretary for Fish and Wildlife and Parks

From: Acting Director, U.S. Fish and Wildlife Service

Subject: S. 2110, Sec. 3(a)(5)

/s/ Arnett 12/15

Provisions of Bill

Senator Melcher of Montana introduced S. 2110 on February 11, 1992, "To establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes." Other purposes of S. 2110 include directing the Secretary, under Sec. 3(a)(5), to open some three miles of road in the UL Bend National Wildlife Refuge Wilderness to motorized vehicles "notwithstanding the provisions of the Wilderness Act of 1964." The intent is to accommodate two individuals (an elderly couple) who wish to drive to a favorite fishing spot along an inlet of the Fort Peck Reservoir known as Mickus Bottom.

We understand that alternative language is being drafted and may be inserted in the bill which would call for removing the road and 50 feet to either side from wilderness status. The intent of this language is to open the road to motorized access without directly controverting the provisions of the Wilderness Act.

Analysis

The Wilderness Act specifically prohibits motorized access within wilderness areas except in emergency situations and as needed to administer such areas. The road in question extends from a point southeast of Dry Lake about three miles into a remote part of the UL Bend Wilderness. The road is not used or maintained by the refuge to administer the area and is completely inaccessible during wet weather.

The requirement for motorized access on this stretch of road did not arise as a significant issue at the public hearings held on the wilderness proposal prior to designation. The road was therefore included in the final proposal and became subject to wilderness management when the UL Bend Wilderness was established in 1977.

The language currently in S. 2110, and the new language that may be inserted, both have serious precedent-setting implications regarding wilderness management. If passed, such legislation would set the stage for similar legislative requests directed at other areas within the Wilderness System. Special exceptions to the Wilderness Act, or boundary changes to remove areas from wilderness status, would be proposed whenever necessary to satisfy the requirements of private

BEST COPY AVAILABLE

individuals. The public interest represented in the establishment and management of wilderness areas, and the intent of Congress to protect that public interest through the Wilderness Act, would be open to question and subject to reversal at any time a private requirement was identified.

Alternatives

Since motorized access to Mickus Bottom is not required either to administer the wilderness area or for emergency purposes, there is no administrative alternative for permitting such access under the Wilderness Act. However, nonmotorized access by horseback and on foot through the wilderness area, and power boat access along Fort Peck Reservoir outside the wilderness area, are both allowed under wilderness management.

In addition, an alternative fishing site, accessible by motorized vehicles, is currently available at Skibby Bottom, which lies northeast of Mickus Bottom just east of the UL Bend boundary in Charles M. Russell National Wildlife Refuge. The access road traverses Section 36 (Township 22, Range 30), an area excluded from the designated wilderness that lies along most of the eastern boundary of the UL Bend Refuge. Skibby bottom is not heavily used and offers a similar fishing experience to that afforded at Mickus Bottom. The site is actually several miles closer to the northeast entrance to the refuge. Boating access from Skibby Bottom to the wilderness shoreline of Fort Peck Reservoir, including the Mickus Bottom site, would also be available.

In addition, a public recreational development area is proposed for UL Bend about 10 miles northeast of Mickus Bottom. A draft environmental impact statement on this proposal has already been prepared. Once developed, the area will provide excellent fishing opportunities and will be easily accessible by a gravel road maintained by the refuge.

Recommendation

The recommendation of the Service is to oppose Section 3(a)(5) of S. 2110, whether under current language calling for special exception to the Wilderness Act, or under new language that would remove the road and 50 feet on other side from wilderness status. Either action would set the undesirable precedent of essentially putting a very limited private interest before the public interest represented in the establishment of wilderness areas under the Wilderness Act. Public hearings on proposed wilderness areas are required by law for the express purpose of providing opportunities for the concerns of private individuals and other entities to be raised and accommodated prior to wilderness designation. It is at this time that the interests of private individuals should be addressed. In addition, alternatives do exist for accommodating this situation to some extent. While the individuals may prefer to fish at Mickus Bottom, similar fishing experiences are currently available on non-wilderness refuge lands in the UL Bend area.

/s/ Harold J. O'Connor

cc: Directorate Reading File
DD Chron
Legislative Service
Sewell

BEST COPY AVAILABLE